

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION
CIVIL ACTION NO.: _____

KENNETH MALINOWSKI,)
Plaintiff,)
)
v.)
)
NATIONAL INDUSTRIAL PORTFOLIO,)
LLC, WESTFIELD DEVELOPMENT)
ASSOCIATES LIMITED PARTNERSHIP)
AND THE HOME DEPOT, INC.,)
Defendants.)

NOTICE OF REMOVAL

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS:

Now comes the Defendant, The Home Depot, Inc. whose true name is Home Depot U.S.A., Inc., pursuant to the provisions of 28 U.S.C. §§1441 and 1446, and hereby files notice of the removal of this action from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts, County of Hampshire, where it is currently pending, based upon the following grounds:

1. 28 U.S.C. §1332(a). Plaintiff is a citizen of the Commonwealth of Massachusetts, Hampshire County.

Defendant, Home Depot, Inc. [sic] (whose true name is Home Depot U.S.A., Inc.) is a duly organized corporation incorporated under the laws of the State of Delaware.

Plaintiff's complaint alleges injuries caused by a defect in a location owned by Westfield Development Associates Limited Partnership ("Westfield"). Upon

information and belief, Westfield sold the property to National Industrial Portfolio, LLC approximately seven (7) months prior to the incident alleged and is not a proper party to this action. National Industrial Portfolio, LLC and is duly organized under the laws of the State of Delaware.

Plaintiff alleges he suffered injuries to his neck and right arm as well as surgery. Plaintiff further alleges medical bills in excess of \$55,000.00 and lost wages in excess of \$60,000.00.

2. The Court has jurisdiction over the Plaintiff's claims per 28 U.S.C. §1441(b) and 28 U.S.C. §1332.
3. Removal is timely as this action was served on the Defendants no earlier than December 30, 2009, and the original Notice of Removal was filed on January 19, 2010.

Signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

Defendant The Home Depot, Inc.
whose true name is Home Depot U.S.A., Inc.
By its attorneys,

/s/ Richard H. Sadowski
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